

manufactured in Florida but in truth channeled to AEBS through intermediaries which buy them from undisclosed Asian suppliers. By passing off these cheaper and inferior foreign cable ties as “Made in the USA,” AEBS and BuyCableTies.com have deceived private customers and the U.S. government who take country of origin into account in making purchasing decisions. On the facts particularized below and to be corroborated once the exact dimension of their misconduct is revealed through this action, ACT asks this Court to put an end to AEBS’s and BuyCableTies.com’s predation, and to award ACT compensatory damages, treble damages, injunctive relief, and its costs and attorneys’ fees.

Summary of the Claims

2. ACT, founded in Worcester County, Massachusetts and headquartered in Gardner, Massachusetts, is an American success story. When Kenneth Tomasetti and his wife Donna started ACT in 1994, they envisioned a business that sold quality products, made in Massachusetts, by respected employees who proudly provide exceptional customer service. By their hard work and steadfast focus, the Tomasettis have achieved that and more.

3. Over the last 20 years, ACT has built a national reputation as a leading, full-line manufacturer of American-made cable ties. Cable ties hold together items such as electric cables or wires, offering a range of applications from household to military uses. ACT employs over 120 people at its recently expanded 112,000-square-foot facility in Gardner, and sells to a wide range of customers, including private companies, equipment manufacturers and suppliers, and the U.S. government.

4. ACT prides itself on fulfilling over 98% of its orders for cable ties with ties made in its Gardner facility. Because of this commitment, ACT’s prices are often higher than those of competitors that import cable ties from overseas. What ACT loses in competitive pricing,

however, it gains in higher quality and the hard-earned trust of its customers that the cable ties they receive are indeed made in the USA. ACT also fully complies with customer requirements, including those of the U.S. government, mandating that products be manufactured in the USA.

5. ACT is equally committed to candor in its advertising and comprehensive service to its customers. To meet certain of those customers' needs, ACT does distribute some unusual designs and sizes of cable ties and some ancillary products made in Taiwan, but ACT takes care to clearly differentiate—in its communications with customers and on its website—these comparatively few foreign products from the broad line of cable ties ACT manufactures in Gardner.

6. AEBS is a direct commercial competitor of ACT in the wholesale manufacture and sale of cable ties for private and U.S. governmental customers.

7. AEBS trumpets that all of its cable ties are made in the USA and that it produces 1.5 billion cable ties per year at its single manufacturing site in Crestview, Florida. Indeed, AEBS publicly pledges its ostensible commitment “to keeping all production in the U.S.” Its website, its catalog, and even the sign outside its manufacturing facility in Crestview proclaim that all of its products are made in the United States. **This is a lie.** As recently as June 2016, AEBS imported millions of ties from Taiwan consisting of almost 700 cartons—weighing 7.6 metric tons—of what it described as “Wiring Accessories.”

8. In truth, AEBS cannot and does not produce the variety of cable ties it sells in its lone manufacturing facility in Florida. Instead, it relies on overseas manufacturers to fulfill many of its orders. To trick consumers and competitors alike, on information and belief, AEBS engages in deceptive practices including causing these foreign-made cable ties to be repackaged or relabeled to mislead customers into believing that AEBS had manufactured the ties at its

Crestview facility, here in the United States. In some instances, AEBS even directs the overseas manufacturer to use AEBS's own logo and packaging, so that the counterfeit cable ties are shipped to the United States already bearing false "made in the USA" markings to wrongly suggest that they supposedly were made in the United States. BuyCableTies.com engages in the same deceitful conduct.

9. AEBS's and BuyCableTies.com's conduct is unfair, deceptive, unconscionable, and oppressive. AEBS and BuyCableTies.com deceive customers, many of which are required to purchase American-made products under their commitments to or subcontracts with their own customers. They deceive the U.S. government, which purchases millions of cable ties a year and often is required by law to take the country of origin into account in purchasing decisions. On information and belief, AEBS foists on the American military inferior foreign products which are not subject to the same quality control as ties made in the USA and thus suffer by comparison on two key characteristics: tensile strength and durability. And AEBS and BuyCableTies.com have harmed—and continue to harm—not only ACT but also other cable tie manufacturers who are unfairly forced to compete with AEBS and BuyCableTies.com for customers who specifically want to purchase cable ties that are manufactured in the USA.

10. AEBS and BuyCableTies.com have acted through a concealed and continuing pattern of fraudulent and predatory conduct, the full contours of which are not yet known, but which includes: secretive relationships with overseas cable tie manufacturers to import and mislabel counterfeit cable ties; wrongful instructions to employees to stay silent about the misconduct they observe at the AEBS Crestview facility; and an arrangement to secretly funnel imported cable ties through at least one other related entity, Cable Tie Express, LLC, which

admittedly purchases cable ties from overseas and which is owned and controlled by the owner of AEBS.

11. ACT, other cable tie manufacturers, the U.S. government and many customers of AEBS and BuyCableTies.com are all their victims. By their actions, AEBS and BuyCableTies.com have violated the Lanham Act, the Florida Deceptive and Unfair Trade Practice Act (which gives life to the Federal Trade Commission regulations prohibiting such conduct), and Massachusetts common law. ACT therefore seeks: compensatory, statutory, and treble damages; injunctive relief; treble damages; and its costs and attorneys' fees incurred in pursuing this action.

PARTIES

12. Plaintiff ACT is a corporation organized under the laws of the State of Delaware, with its principal place of business at 245 Suffolk Lane, Gardner, Massachusetts.

13. Defendant AEBS is a limited liability company organized under the laws of the State of Delaware, with a principal place of business at 5680 John Givens Road, Crestview, Florida. AEBS operated as Bay State Cable Ties, LLC until on or about June 2016. From 2001 until approximately February 8, 2007, Bay State Cable Ties, LLC was a Massachusetts limited liability company. AEBS is and has been owned and operated by Robert Sires, who is also the controlling owner of at least two separate cable tie suppliers, Defendant BuyCableTies.com and Cable Tie Express, LLC, as well as a plastic injection molding company, Technology Plastics LLC.

14. Defendant BuyCableTies.com is a limited liability company organized under the laws of the Commonwealth of Massachusetts, with a place of business at 499 Electric Avenue,

109, Fitchburg, Massachusetts, and a place of business in Crestview, Florida at 3003 Colonial Circle. Mr. Sires is a controlling owner of BuyCableTies.com.

JURISDICTION AND VENUE

15. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1121.

16. This Court has supplemental jurisdiction over ACT's state law claims pursuant to 28 U.S.C. § 1367(a).

17. This Court has personal jurisdiction over both AEBS and BuyCableTies.com because (1) the actions in this case arise at least in part out of AEBS's and BuyCableTies.com's transaction of business in the Commonwealth, including but not limited to offering their products to Massachusetts customers and contracting to supply goods in this Commonwealth; (2) AEBS's and BuyCableTies.com's actions complained of herein are causing injury to ACT in the Commonwealth; and (3) AEBS and BuyCableTies.com regularly do business in the Commonwealth.

18. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims occurred in Massachusetts.

FACTS

ACT and AEBS Manufacture and Compete for Sales of Cable Ties

19. ACT was founded in Fitchburg, Massachusetts in 1994 by Kenneth Tomasetti and his wife Donna. ACT later moved to Gardner, Massachusetts.

20. ACT is an ISO 9001:2008 registered company that manufactures a wide range of cable ties. Its products meet UL, CSA, and military standards. ISO 9001:2008 is an international standard for a quality management system that increases organizational

effectiveness and efficiency, promotes a high quality of product, and facilitates customer satisfaction. An ISO 9001:2008 registered company is one that has been certified by an independent certification body as complying with these quality management principles. Underwriters Laboratories (UL) and Canadian Standards Association (CSA) are safety consulting and certification organizations that set widely recognized standards for electrical products.

21. ACT has spent considerable money to insure its products conform with the Federal Trade Commission's definition of "made in the USA."

22. ACT prides itself on producing virtually all of its cable ties and wiring accessories in the United States. Its marketing materials specifically identify which of its products are made in the United States. For those very limited exceptions in which ACT distributes unusual ties or ancillary products made in Taiwan, ACT makes clear to customers on its website and in its marketing communications that those few products are not manufactured in the United States.

23. ACT's facility is 112,000 square feet following an expansion in June 2016 that enables ACT to increase its staff size and cable tie production capacity.

24. ACT possesses 18 injection-molding machines, over 30 molds, and necessary auxiliary equipment to manufacture the cable ties it sells. ACT produces on average 1.2 billion cable ties a year at its Gardner facility, and has produced as many as 1.4 billion in a single year.

25. AEBS and BuyCableTies.com, both under the direction of Mr. Sires, are direct competitors of ACT for government and private sales of cable ties and ancillary products, such as clamps.

26. On information and belief, orders made through BuyCableTies.com ship from AEBS's Crestview, Florida facility.

27. AEBS has made conflicting and misleading claims about the size of its facility.

For example:

- (a) AEBS states on its website that it has a “State-Of-The-Art 75,000 square foot facility” at 5680 John Givens Road, in Crestview, Florida. This is the only manufacturing facility operated by AEBS. In a November 16, 2015 YouTube video, AEBS represented that it had a “nearly 100,000 square-foot state-of-the-art facility” in Crestview. According to publicly available property records, AEBS’s Crestview facility is actually only approximately 65,317 square feet, and only of approximately 43,112 of that square footage is for manufacturing; the remaining 22,205 square feet is office and storage space; and
- (b) In a June 1, 2016 press release, AEBS announced that it had recently “expanded [its] manufacturing plant by 20,000 square feet.” The property records for 5680 John Givens Road, however, reveal that AEBS only built a new storage warehouse, and did not expand its manufacturing facility at all.

AEBS and BuyCableTies.com Falsely Induce Sales by Claiming All of Their Ties Are Made in the United States

28. AEBS falsely trumpets that all of its cable ties are “Made in the USA” and misleadingly insists that it has moved away from overseas manufacturing.

29. On or about June 1, 2016, AEBS compounded its fraud on cable tie consumers and competitors by announcing that it was changing its name from “Bay State” to “American Elite Molding.” In its press release, AEBS stated that “[t]he word ‘American’ was chosen to communicate the company’s commitment to keeping all manufacturing processes in America. . . . ‘Elite’ refers to the company’s position as America’s leading manufacturer of cable ties.” Further, AEBS’s founder and Chief Executive Officer, Robert Sires, stated that despite the severe downturn in the construction industry from 2008 to 2010, which industry is a substantial component of the cable tie market (through HVAC and other building trades), AEBS had “had twelve straight years of double digit growth since [Bay State] decided to become an American

manufacturer.” In a news article published the same day, titled “Bay State renamed AEBS to reflect ‘Made in America’ heritage,” Mr. Sires explained that “[w]e’ve seen a real resurgence for ‘Made in America.’” The article reported that the new name would “better reflect[] [the company’s] identity and will serve it better as [it] grows in the future.” The new sign outside AEBS’s Crestview facility could not reflect Mr. Sires’ message more clearly. In giant letters, the sign proclaims: “Made in the USA.” Attached as Exhibit A is an image of this sign.

30. AEBS’s informational and marketing materials are rife with “Made in the USA” references to describe the entire portfolio of products the company offers. AEBS’s website (<http://www.baystatecableties.com/>) states that it is “proud to offer not only a full line of cable ties, but also related accessories, HVAC duct straps, and custom plastic injection molding services--*all Made in the USA*” (emphasis added).

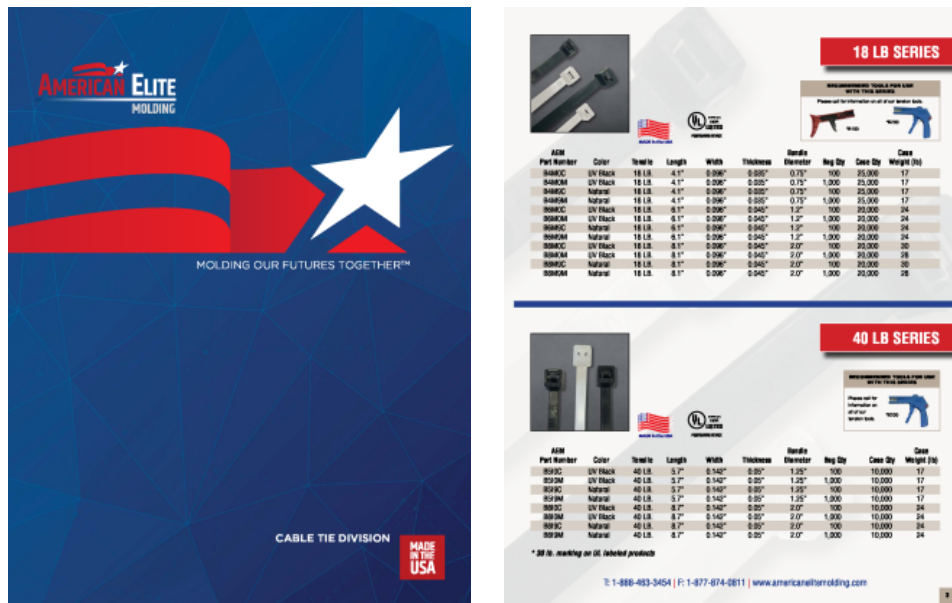
31. The cover of Bay State’s 2014 product catalog, which was available on AEBS’s website until a new catalog was released in 2017, reflected an image of an American flag and the words “Made in the USA,” and further emphasized for consumers that its products are allegedly made domestically by describing Bay State as “America’s Leading Manufacturer of Nylon Cable Ties”:



Select pages of the 2014 Catalog are attached as Exhibit B.

32. Every single page of the 2014 Catalog (except one describing a part-numbering system) featured two logos proclaiming that each type of cable tie is “Made in the USA.”

33. AEBS’s 2017 Catalog (available at <http://www.baystatecableties.com/files/Catalog2017.pdf>) features a prominent “Made in the USA” logo on its cover and an American flag with the words “Made in the USA” on nearly every page:



The 2017 Catalog is attached as Exhibit C.

34. The 2017 Catalog was released on AEBS’s website after the instant lawsuit was filed.

35. At least three videos publicly available on YouTube unequivocally proclaim that AEBS’s cable ties are made in the United States:

- (a) an October 7, 2015 video titled “Vision of Progress TV Show & Bay State Cable Ties Event,” produced by the Economic Development Council of Okaloosa County (<https://www.youtube.com/watch?v=uBetwDy7jn4>);

- (b) a November 16, 2015 video titled “Bay State Cable Ties – Crestview,” produced by RGC Media, Inc. (<https://www.youtube.com/watch?v=L3FAOFlczS8>); and
- (c) a June 14, 2016 video titled “AEBS Molding re-brand marketing video,” produced by Pioneer Technologies Corporation (https://www.youtube.com/watch?v=mTDK_hPnF-8). In the October 7, 2015 video, Mr. Sires himself emphasized that all of Bay State’s products are made in the United States.

36. Robert Sires, the controlling owner of AEBS, also owns several other cable tie businesses, including BuyCableTies.com, an internet business registered in Massachusetts with a principal place of business in Florida.

37. BuyCableTies.com also unequivocally proclaims on its website that it is “the most trusted source for cable ties” and that its products are “Made in the USA.” Similarly, on its website and in its Amazon.com listings of products for sale, BuyCableTies.com claims that its products are “Made in the USA for over 10 years.”

38. On information and belief, the only cable ties manufacturing facility Robert Sires controls is the AEBS facility in Crestview, Florida.

39. Based on AEBS’s representations on its website, in its catalog, in YouTube videos, on the sign at the front of its Crestview facility, and in its and BuyCableTies.com’s myriad marketing materials and public statements, every customer and prospect is assured that all of AEBS’s and BuyCableTies.com’s cable ties are produced in the United States. **But they are not.**

40. AEBS has no truthful basis for representing directly or through BuyCableTies.com that all of its cable ties are made in the United States. On information and belief, AEBS has consistently and covertly supplemented its domestic production with cable ties made overseas, often funneling them from affiliated intermediaries, then repackaging them to

appear as though they have been produced in AEBS's U.S. facility and selling them as supposedly "Made in the USA" to unsuspecting customers.

***In Truth, AEBS Orders Cable Ties from Asian
Manufacturers and Repackages or Relabels Them as Its Own***

41. On information and belief, AEBS completely lacks the equipment needed to produce several of the cable ties and products it broadly advertises as being made in the United States. On information and belief, AEBS does not possess the molds required to produce the following products, and instead imports them from China: the 48"-175 lb. cable tie; the 22"-250 lb. cable tie; and the 1/8" clamp.

42. Specifically, the 48"-175 lb. cable ties cannot be made by AEBS because, based on publicly available UCC filings, the largest molds AEBS possesses can make only a 36"-175 lb. cable tie. Moreover, the UL card listings for AEBS show that AEBS does not manufacture *any* UL-approved 48" cable ties.

43. Instead, AEBS's 48" cable ties are imported from China and repackaged as AEBS's cable ties. Only after a customer bought and received his ties might he discover—assuming he looked beyond the colorful American flag imagery at the top and bottom of each bag and noticed the small-font disclaimer—that these ties in fact are made in China:



A larger version of this photograph is attached as Exhibit D.

44. AEBS's 2014 Catalog, in use through on or about November 2016, proclaimed that these ties were made in the United States. It was not until after the instant lawsuit was filed in September 2016 that AEBS replaced its 2014 Catalog with a 2017 Catalog that purports to notify customers that the 48"-175 lb. ties are not made in the United States. But even this belatedly provided notice is facially deficient. Far below a prominent "Made in the USA" flag and logo suggesting that the entire 175 lb. series of ties is American-made, AEBS has placed an asterisk, followed by a small-font footnote that the 48" ties are "Not made in U.S.A.":



175 lb series

BSCT Part Number	Color	Tensile	Length	Width	Thickness	Bundle Diameter	Bag Qty	Case Qty	Case Weight
B18H0C	UV Black	175 LB	18.5"	0.335	0.087	5.0	100	1,000	22
B18H9C	Natural	175 LB	18.5"	0.335	0.087	5.0	100	1,000	22
B24H0L	UV Black	175 LB	24"	0.335	0.087	7.2	50	500	15
B24H9L	Natural	175 LB	24"	0.335	0.087	7.2	50	500	15
B36H0L	UV Black	175 LB	36"	0.335	0.087	11.0	50	500	22
B36H9L	Natural	175 LB	36"	0.335	0.087	11.0	50	500	22
B48H0L	UV Black	175 LB	48"	0.335	0.087	15.0	50	500	27
B48H9L	Natural	175 LB	48"	0.335	0.087	15.0	50	500	27

2014 Catalog



175 LB SERIES

RECOMMENDED TOOLS FOR USE WITH THIS SERIES

Please call for information on all of our master tools.






AEM Part Number	Color	Tensile	Length	Width	Thickness	Bundle Diameter	Bag Qty	Case Qty	Case Weight (lb)
B18H0L	UV Black	175 LB	18.5"	0.350"	0.087"	5.0"	50	1,000	22
B18H9L	Natural	175 LB	18.5"	0.350"	0.087"	5.0"	50	1,000	22
B24H0L	UV Black	175 LB	24"	0.350"	0.087"	7.2"	50	500	15
B24H9L	Natural	175 LB	24"	0.350"	0.087"	7.2"	50	500	15
B30H0L	UV Black	175 LB	29.6"	0.350"	0.087"	9.3"	50	500	20
B30H9L	Natural	175 LB	29.6"	0.350"	0.087"	9.3"	50	500	20
B36H0L	UV Black	175 LB	36"	0.350"	0.087"	11.0"	50	500	22
B36H9L	Natural	175 LB	36"	0.350"	0.087"	11.0"	50	500	22
*B48H0L	UV Black	175 LB	48"	0.350"	0.087"	15.0"	50	500	27
*B48H9L	Natural	175 LB	48"	0.350"	0.087"	15.0"	50	500	27

*Not made in U.S.A.

2017 Catalog

45. This footnote does nothing to right the wrong perpetrated on customers who purchased these ties through 2016, nor does it inform customers who are likely to miss the asterisk that the ties they are purchasing are the exception to AEBS's flag-waving assurance—touted across the Internet—that it sells only products that are made in the United States. Nor does the footnote mitigate the harm AEBS's false representations have worked on ACT—which manufactures a 48" cable tie in its Gardner, Massachusetts facility, with a mold build by ACT's founder, Mr. Tomasetti, himself—and other honest cable tie manufacturers.

46. On information and belief, AEBS also does not possess the molds required to produce the 22"-250 lb. cable ties it advertises as among its products "made in the USA." In its

2017 Product Catalog, AEBS discretely omits the “Made in the USA” logo from the section listing 250 lb. cable ties, obviously intending that the import of its omission will be lost on unsuspecting customers:

The image displays four pages from a 2017 Product Catalog, each showing a different series of cable ties: 50 LB, 175 LB, 120 LB, and 250 LB. Each page features a table of specifications and a 'MADE IN U.S.A.' logo. The tables include columns for Part Number, Color, Tensile, Length, Width, Thickness, Bundle Diameter, Bag Qty, Case Qty, and Case Weight (Lbs). The 50 LB series has 10 parts, the 175 LB series has 10 parts, the 120 LB series has 10 parts, and the 250 LB series has 10 parts. The 'MADE IN U.S.A.' logo is prominently displayed on each page.


47. Meanwhile, BuyCableTies.com, which on information and belief uses only AEBS’s Crestview facility for American manufacturing, continues to falsely represent that its 22”-250 lb. cable ties are made in the United States:

The screenshot shows the BuyCableTies.com website. The header includes a navigation bar with links for HOME, CABLETIES, SPECIALTY TIES, ACCESSORIES, CUSTOM, and ABOUT US. A search bar is located in the top right corner. The main content area displays the product page for "22" Heavy Duty 250LB Tensile Strength Cable Ties UV - Black - 25/bag". The page features a large image of the cable ties and a list of specifications:

- 22" 250LB Cable Ties UV Black
- 25 per bag
- Length - 22" inch
- Width - 0.5 inch
- Thickness - 0.1 inch
- Max Bundle Diameter - 6 inch
- Minimum Loop Tensile Strength - 250 pounds
- Pieces Per Unit - 25
- Designed to temperature variations from -45F to 185F.

The page also includes a "MADE IN U.S.A." logo and a "Color/Part #s available - Y222500Q - UV Black" note.

48. AEBS also falsely advertises in its 2017 Catalog that all of its clamps are made in the United States:



LIGHT & HEAVY DUTY CABLE CLAMPS

MADE IN THE USA

AEM Part Number	Clamp Dia. (Inches)	Hole Dia. (Inches)	Width (Inches)	Material	Bag Qty	Case Quantity
BLC125°C	1/8"	0.17"	0.37"	Nylon	100	1,000
BLC187°C	3/16"	0.17"	0.37"	Nylon	100	1,000
BLC250°C	1/4"	0.17"	0.37"	Nylon	100	1,000
BLC375°C	3/8"	0.17"	0.37"	Nylon	100	1,000
BLC500°C	1/2"	0.17"	0.37"	Nylon	100	1,000
BHC250°C	1/4"	0.2"	0.5"	Nylon	100	1,000
BHC375°C	3/8"	0.2"	0.5"	Nylon	100	1,000
BHC500°C	1/2"	0.2"	0.5"	Nylon	100	1,000
BHC750°C	3/4"	0.2"	0.5"	Nylon	100	1,000
BHC1000°C	1"	0.2"	0.5"	Nylon	100	1,000

* Insert 0 for Natural or B for black

49. In truth, many if not all of these clamps are imported from China (just as similar ones are imported by ACT), bearing long serial numbers which confirm their Chinese origin:



A larger version of this photograph is attached as Exhibit E.

50. Since at least 2004 and continuing through the present, on information and belief, AEBS has regularly filled orders with millions, if not billions, of Chinese cable ties and represented to customers that those cable ties were “made in the USA.”

51. According to statements by Mr. Sires, AEBS’s Founder and CEO, in an October 7, 2015 interview, AEBS did distribute Chinese-made cable ties when it was located in Massachusetts, but relocated to Crestview, Florida to open its own manufacturing facility and

become a “full source manufacturer” of American cable ties. In the interview, Mr. Sires proclaimed that “all of our products are made in America.” Moreover, he stated that “twelve years ago we were just buying products from China and reselling them,” but since moving to Florida, the company’s significant financial growth has been attributable to having its products “made in America.” Mr. Sires boasted that “[o]ur biggest competitors would be China, and we beat ‘em, and we beat ‘em good.” All of these statements were made with the intent of duping the American consumer into believing that AEBS was fairly competing with other American cable tie manufacturers. AEBS has now gotten away with this fraud for over ten years.

52. Since AEBS opened its facility in Florida, on information and belief, it has supplemented production by continuing to import Chinese-made cable ties from at least one company, known as GiantLok.

53. GiantLok has operated in China, Taiwan, Thailand, and Japan. It is in the business of manufacturing cable ties and exporting them overseas. On information and belief, GiantLok was formerly known as Hua Wei and based in Shanghai. When GiantLok changed its name and relocated its operations to Thailand and Taiwan, many of its employees stayed in Shanghai and began working for a cable tie manufacturer known as All Links Forever.

54. Based on the sworn testimony of a former AEBS sales representative and former AEBS employees, from at least 2004 through 2007, AEBS reportedly ordered cable ties from Chinese manufacturers when it could not satisfy orders for American made ties due to manufacturing problems with its molds.

55. When AEBS imported cable ties from China, it removed the ties from the “Made in China” packaging, repackaged them in “Bay State” bags, and marked them as being “Made in the USA” before selling them to AEBS’s customers.

56. AEBS's customers thusly have been led to believe, for at least 12 years, that they were purchasing American-made cable ties, when they were not.

57. Between 2006 and 2007, AEBS fraudulently shipped millions of Chinese cable ties to customers under the "Bay State" label and marked as "Made in the USA."

58. On information and belief, AEBS has continued to order from overseas in order to fill "made in USA" customer orders. In 2011, AEBS received at least two shipments of cable ties—in over 1400 cartons weighing over 17 metric tons—from "GiantLok (Thailand) Co., Ltd. and originating in Thailand.

59. In 2015, AEBS ordered cable ties through the "private branding" branch of what was then known as Hua Wei (now GiantLok). On information and belief, GiantLok manufactured these ties in Asia—in China, Taiwan, and/or Thailand—imprinted them with the "Bay State" logo, and packaged them in "Bay State" packaging with an American flag prominently displayed. This is consistent with AEBS's display of an American flag on every package sold by AEBS. To do this, GiantLok used a mold with a "Bay State" insert.

60. On information and belief, the "private branding" branch of GiantLok continues to do business with AEBS, and AEBS continues to procure foreign cable ties and disguise them as domestically manufactured ties to satisfy customers' orders. Specifically, on information and belief, AEBS instructs GiantLok to use AEBS's registered mark on the cable ties and on their packaging to make them appear as though they have been manufactured by AEBS in the United States.

61. Just over two months before this lawsuit was filed, in June 2016, AEBS received from Taiwan another 690 cartons, weighing 7.6 metric tons, of what were described as "Wiring Accessories."

AEBS Uses an Intermediary to Promote the False Appearance That Imported Cable Ties Are Made in the United States

62. In addition to importing cable ties directly from GiantLok and Hua Wei, AEBS funnels imported cable ties from overseas to its unsuspecting customers by using an affiliated company, Cable Tie Express, LLC (“Cable Tie Express”). This relationship enables AEBS to deceive consumers into thinking that all the cable ties it sells are made in the United States, when in fact many are repackaged and relayed by Cable Tie Express from foreign manufacturers.

63. Cable Tie Express is registered as both a Florida and an Indiana limited liability company that is also registered to do business in California. As of November 10, 2015, Cable Tie Express was registered as having the same principal address as AEBS, in Crestview, Florida. Cable Tie Express also has a principal place of business in Noblesville, Indiana.

64. On information and belief, Mr. Sires, the founder and CEO of AEBS, also owns an interest in Cable Tie Express. The registered agent identified in the Indiana corporate record of Cable Tie Express is Mr. Sires. The registered agent in the Florida corporate record of Cable Tie Express is Roman Capital LLC, for which Mr. Sires is listed as a managing member. On information and belief, Cable Ties Express is owned by Roman Capital LLC. Roman Capital LLC owns, on behalf of Bay State (now AEBS), the property at 5680 John Givens Road in Crestview, which serves as the principal address for both AEBS and Cable Tie Express.

65. Import records document that Cable Tie Express consistently has imported cable ties from China since at least 2007, through and including July 2016. In particular, Cable Tie Express received shipments of cable ties from Asia monthly from July 2007 through July 2013, at which point it began receiving shipments often twice a month. When the import records were last checked in September 2016, Cable Tie Express had recently received shipments on April 5, 2016, April 19, 2016, May 3, 2016, May 31, 2016, June 14, 2016, July 5, 2016, and July 26,

2016. On information and belief, Cable Tie Express has long-term relationships with overseas cable tie manufacturers, which it leverages to then supply AEBS (and then BuyCableTies.com) with the cable ties it needs to satisfy its orders.

66. As alleged above, AEBS's multi-part scheme to funnel imports through Cable Tie Express and then marketing these imported cable ties as made in the United States has been consistent and ongoing since at least 2006.

AEBS and BuyCableTies.com Have Gained Substantial Unfair Advantages by Their Fraudulent Importation, Marketing and Sales

67. By lying about the country of origin of their products, AEBS and BuyCableTies.com have wrongly won customers and extracted numerous competitive advantages, including the ability to underbid on government and private contracts and enjoy the reputational value of supposedly offering only American-made cable ties.

68. Cable ties made in China, Taiwan and other Asian countries are of poorer quality than those made in the United States. The United States Department of Commerce has confirmed that foreign-made product components "may lead to lower product quality, potentially costly produce returns, and legal liability," and thereby create meaningful "product quality risks." See United States Department of Commerce, *Assess Costs Everywhere*, <http://acetoool.commerce.gov/product-quality> (last accessed Mar. 27, 2017) (attached hereto as Exhibit F). Because imported products are not subject to the same quality control and suffer by comparison in areas of tensile strength and durability compared to cable ties made in the USA, many customers, including construction contractors and U.S. government purchasers using cable ties for military or high-risk applications, require that the cable ties they purchase be made in the United States.

69. Given these tangible and intangible benefits, many customers require, and so will pay a premium for, American-made products. *See Knowing Which Products Are Truly Made in America*, CONSUMER REPORTS MAGAZINE (Feb. 2013), *available at* <http://www.consumerreports.org/cro/magazine/2013/02/made-in-america/index.htm> (attached hereto as Exhibit G). As this 2013 survey established, over 80% of those Americans who prefer American-made products over identical products made overseas cited “retaining manufacturing jobs and keeping American manufacturing strong in the global economy as very important reasons for buying American,” and 60% cited the higher quality of American-made goods as a reason for buying American. *Id.* Still, when choosing between two products that are purportedly both made in the United States and presumed to be of comparable quality, consumers will often choose the one at the lower price.

AEBS Has Furthered Its Deceit Through Interstate Commerce

70. AEBS has furthered its wrongful marketing and sales of foreign-made cable ties as “Made in the USA” through interstate commerce.

71. AEBS makes false representations as to the country of origin of its products via the Internet, including on its website and in its online product catalog, and in its placement of bids and acceptance of orders over the Internet. On information and belief, AEBS also markets and sells its products over the telephone. These uses of the wires cross interstate boundaries, as AEBS markets its products nationally and accepts orders from customers across the United States.

72. On information and belief, AEBS ships products to customers across state lines through the United States Postal Service and invites and receives orders from customers within and outside of Florida by U.S. mail.

Private and Government Customers, and Competitors, Have Been Victimized by AEBS

73. Many private customers prefer to purchase products made in the United States, or have other contracts or subcontracts requiring them to purchase products made in the United States. For example, McMaster-Carr, a distributor, and DuroDyne Corporation, a manufacturer of HVAC equipment, prefer, and in some instances require, American-made products, and DuroDyne specifically uses the 48” cable ties which AEBS has falsely claimed to manufacture in the United States. ACT is informed and believes that American manufacture is material to the purchasing decisions of numerous other cable tie customers, including, but not limited to, 3M, Grote, Burndy and Optimas.

74. Similarly, the U.S. government, a major purchaser of cable ties for use in a variety of military and civilian applications, typically expresses an explicit preference for American-made products.

75. By their self-perpetuating cycle of secret importation, counterfeit labelling or repackaging, and false advertising, AEBS and BuyCableTies.com offer a lower price per unit and thereby have been—and continue to be—able to wrongfully win contracts from these unsuspecting customers and to outbid competitors that actually do sell American-made products.

76. AEBS and BuyCableTies.com continue to engage in this pattern of deceit despite being informed of these claims in September 2016. For example, AEBS continues to make false representations on YouTube, on its website, in available press releases, and in its updated catalog about the origin of its products.

ACT Has Suffered Economic Losses as a Direct and Proximate Result of AEBS’s Misconduct

77. Manufacturing products in the United States is often more costly than manufacturing them overseas, where human labor and real estate are typically cheaper. *See Just How Cheap Is Chinese Labor?*, Bloomberg (Dec. 12, 2004), <http://www.bloomberg.com/news/>

[articles/2004-12-12/just-how-cheap-is-chinese-labor](#) (attached hereto as Exhibit H).

Representing that a product is “Made in the USA” when it is not therefore often allows a supplier to sell a product at a lower price or earn a greater profit than that supplier would have earned had the product actually been manufactured in the United States—or both.

78. ACT cannot fairly compete with a supplier which consistently misrepresents the country of origin of its cable ties. For example, while ACT manufactures its 48” cable ties in the United States and bears the costs associated with doing so, AEBS encourages customers to believe that its 48” cable ties (sold at a lower price point) are products of comparable quality. They are not.

79. ACT has lost revenue from many private-customer contracts, and AEBS has earned revenue from these contracts, both in amounts to be determined at trial, by reason of AEBS’s pattern of secret importation, false labeling or repackaging, and false representations. The full amount of AEBS’s ill-gotten revenue cannot be calculated absent discovery.

80. For example, McCaster-Carr, which prefers American products, does not order certain cable ties from ACT because the pricing is too high. In addition, at least one former customer of ACT recently has confirmed that it stopped buying cable ties from ACT because of price, even though the customer stated that it has “always considered [ACT’s] products as the best quality available in the market, period.”

81. Conversely, another customer, DuroDyne, now purchases its 48” cable ties from ACT upon learning that ACT does in fact manufacture its 48” cable ties in the United States.

82. AEBS has successfully deceived its competitors and its customers, including the U.S. government (and its military operations), into believing that all of AEBS’s products are made in the United States, when they are not. The depth of AEBS’s deceit has impeded the

discovery of its full extent. ACT therefore has submitted a FOIA request for documents reflecting AEBS's representation that the cable ties it sells to the U.S. government are made in the United States. More documents confirming that many of AEBS's cable ties are not in fact manufactured in the United States are exclusively within the possession and control of AEBS. With discovery, ACT can and will obtain additional corroboration for the assertions it necessarily has made upon information and belief herein.

CLAIMS

COUNT I

(Violation of Section 43(a) of the Lanham Act, 41 U.S.C. § 1125(a)(1))

83. ACT restates and incorporates by reference Paragraphs 1 through 82 of this Complaint as if fully set forth herein.

84. AEBS and BuyCableTies.com sell and transport cable ties through interstate commerce.

85. ACT and AEBS/BuyCableTies.com are companies in direct commercial competition. AEBS's and BuyCableTies.com's products are targeted to the exact same consumers as ACT targets its products. These products serve the same functions.

86. AEBS and BuyCableTies.com advertise that their products, namely cable ties, are made in the United States. AEBS's and BuyCableTies.com's website, product catalog, advertisements, and other materials contain false and/or misleading descriptions and representations of fact in connection with their sale, offering for sale, advertising, marketing, and promotion of their cable tie products, which falsely or misleadingly describe or represent the country of origin of such goods. On information and belief, AEBS and BuyCableTies.com do not manufacture all or virtually all of their cable ties in the United States. As described more

fully above, AEBS does not possess the machinery needed to fulfill all of its and BuyCableTies.com's orders. Instead, as alleged above, AEBS and BuyCableTies.com contract with overseas manufacturers, either directly or indirectly, to satisfy their orders.

87. These advertising and marketing materials are being displayed and distributed in interstate commerce.

88. AEBS's and BuyCableTies.com's rampant use of the term "Made in the USA" and prominent display of American flag images, without discernment for which products are in fact made in the United States, are intentionally designed to deceive, and has deceived, advertisers and consumers, including the U.S. government, to believe that all of the products offered by AEBS and BuyCableTies.com are made in the United States. AEBS's and BuyCableTies.com's advertisements and representations are designed to influence consumers' purchasing decisions. Whether a product is made in the United States can be a material and determining factor in a consumer's choice among competing products.

89. AEBS's and BuyCableTies.com's conduct is willful, deliberate, intentional and in bad faith. Their broad use of the term "Made in the USA" and prominent display of American flag images, which have continued even after their deceit was brought to their attention by ACT, constitute willful, intentional, unfair competition.

90. As a direct and proximate result of AEBS's and BuyCableTies.com's actions, consumers are likely to be confused or mistaken, or deceived, as to the origin and source of AEBS's and BuyCableTies.com's products.

91. Upon information and belief, AEBS and BuyCableTies.com have earned and will continue to earn profits as a direct result of their representations that their products are "Made in the USA."

92. Upon information and belief, some customers who purchased cable ties from AEBS or BuyCableTies.com would have purchased cable ties from ACT had they known that the ties sold by AEBS or BuyCableTies.com were not made in the United States.

93. AEBS's and BuyCableTies.com's unlawful actions violate Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

94. As a direct and proximate result of the willful and wanton conduct of AEBS and BuyCableTies.com, ACT has been injured and will continue to suffer harm in the Commonwealth, in the United States, and worldwide.

95. As a direct and proximate result of AEBS's and BuyCableTies.com's false and misleading representations, ACT has been damaged in an amount to be determined at trial. ACT is entitled to recover the damages sustained as a result of AEBS's and BuyCableTies.com's false and misleading representations, and the profits AEBS and BuyCableTies.com earned as a result of their violations of Section 43(a) of the Lanham Act.

96. The foregoing conduct, in particular AEBS's and BuyCableTies.com's bad faith and willful conduct in making false representations to consumers even after receiving specific notice of their deceitful conduct, renders this case exceptional, entitling ACT to treble damages and an award of reasonable attorneys' fees.

97. As a direct and proximate result of AEBS's and BuyCableTies.com's conduct, ACT is entitled to injunctive relief enjoining and restraining AEBS and BuyCableTies.com from using the term "Made in the USA" except as to those specific products that are in fact manufactured in the United States.

98. ACT has suffered and, unless AEBS and BuyCableTies.com are enjoined, will likely continue to suffer irreparable injury by reason of the false and misleading claims made by AEBS and BuyCableTies.com about their products.

99. ACT has no adequate remedy at law.

COUNT II

(Intentional Fraud)

100. ACT restates and incorporates by reference Paragraphs 1 through 99 of this Complaint as if fully set forth herein.

101. At all relevant times hereto, AEBS and BuyCableTies.com have represented and continue to represent that all or virtually all of their products are made in the United States. AEBS makes this representation to ACT and to consumers, purchasers, competitors, market analysts, product regulators, and the general public, on its website, in its product catalog, in press releases, on the sign of its Crestview facility, and in its bids for orders from the U.S. government.

102. This representation is false.

103. AEBS and BuyCableTies.com knew this representation was false when made.

104. AEBS and BuyCableTies.com made this representation for the purpose of inducing consumers to purchase AEBS's products, and for the purpose of deceiving competitors as to the origin of its products. The country of origin of a product is a material fact in purchasing and competitive pricing decisions.

105. ACT relied upon AEBS's and BuyCableTies.com's representation of the country of origin of their products in assessing its competition and setting pricing. In believing that AEBS and BuyCableTies.com manufactured all of their products in the United States, ACT made business decisions based on a flawed assessment of the competitive marketplace. These

decisions were made to ACT's detriment because, among other reasons, it lost many bids for orders to AEBS and BuyCableTies.com.

106. As a result of AEBS's and BuyCableTies.com's fraudulent conduct, ACT has been damaged and is entitled to recover from AEBS and BuyCableTies.com in an amount to be determined at trial.

COUNT III

(Negligent Misrepresentation)

107. ACT restates and incorporates by reference Paragraphs 1 through 106 of this Complaint as if fully set forth herein.

108. At all relevant times hereto, in its course of its business, AEBS and BuyCableTies.com have represented and continue to provide false information that all or virtually all of their products are made in the United States. AEBS provides this false information to ACT and to consumers, purchasers, competitors, market analysts, product regulators, and the general public, on its website, in its product catalog, in press releases, on the sign of its Crestview facility, and in its bids for orders from the U.S. government.

109. This false information is and was supplied to guide such persons in their business decisions, including but not limited to in purchasing cable ties and in setting prices for cable ties.

110. AEBS's and BuyCableTies.com's false representation has caused and continues to cause ACT and other competitors to lose bids because they cannot compete with a supplier whose products are allegedly made in the United States, but are not, and therefore are offered at a price point that is unachievable for American manufacturers.

111. ACT and other competitors have justifiably relied on AEBS's and BuyCableTies.com's false representation in making business decisions and assessing the

competitive marketplace. Consumers, purchasers, and the general public have justifiably relied on AEBS's and BuyCableTies.com's false representation in making their own business and purchasing decisions. These decisions have had and continue to have a detrimental effect on ACT and other competitors whose products are American-made.

112. AEBS and BuyCableTies.com knew that not all of their cable ties were manufactured in AEBS's Crestview facility, and that many of their cable ties were actually made overseas. AEBS and BuyCableTies.com failed to exercise reasonable care or competence in communicating to consumers, competitors, product regulators, and the general public which of their products are not in fact made in the United States.

113. As a result of AEBS's and BuyCableTies.com's misrepresentation, ACT has suffered a pecuniary loss in an amount to be determined at trial.

COUNT IV

(Violation of the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201-501.213 – Against Defendant AEBS Only)

114. ACT restates and incorporates by reference Paragraphs 1 through 113 of this Complaint as if fully set forth herein.

115. ACT is a person within the meaning of Fla. Stat. § 501.211(2).

116. AEBS had engaged in trade and commerce within the meaning of Fla. Stat. § 501.203(8).

117. AEBS, acting individually or in concert with others, has engaged in representations, acts, practices or omissions in trade or commerce which are material, and which are likely to mislead consumers and purchasers acting reasonably under the circumstances with regard to their choices of cable ties. In addition, AEBS has engaged in acts or practices in trade

or commerce which offend established public policy and are unethical, oppressive, unscrupulous or substantially injurious to consumers.

118. AEBS willfully engaged in deceptive and unfair acts and practices in that AEBS knew or should have known that the methods, acts or practices alleged herein were deceptive, unfair, or unconscionable, or prohibited by law. AEBS knew that it was not true that all or virtually all of its products were made in the United States. On information and belief, AEBS willfully and knowingly made false representations as to the country of origin of its products in order to compete unfairly for purchase orders from customers, including the U.S. government.

119. The actions of AEBS, including, but not limited to representing and advertising to competitors and consumers that all or virtually all of its products are made in the United States, as described above, constitute deceptive and unfair acts and practices that perpetrate a fraud upon consumers and competitors in violation of Florida Deceptive and Unfair Trade Practices Act, Fla. Stat., §§ 501.201 *et seq.*

120. Such conduct on the part of AEBS is willful, intentional, and unconscionable, thereby causing irreparable harm and actual damages to ACT and entitling ACT to damages in an amount to be determined at trial; court costs; and reasonable attorneys' fees.

121. As a direct and proximate result of AEBS's conduct, ACT is entitled to injunctive relief enjoining and restraining AEBS from using the term "Made in the USA" except as to those specific products that are in fact manufactured in the United States.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff ACT prays that this Court enter judgment in its favor and against Defendants AEBS and BuyCableTies.com, awarding the following:

- (i) Damages and restitution in an amount to be determined at trial;

- (ii) Treble damages pursuant to 15 U.S.C. § 1117 (Lanham Act);
- (iii) Disgorgement of Defendants' profits pursuant to 15 U.S.C. § 1051 *et seq.* (Lanham Act);
- (iv) Attorneys' fees, costs, and disbursements pursuant to 15 U.S.C. § 1117 (Lanham Act);
- (v) Punitive and exemplary damages in an amount to be determined at trial;
- (vi) Pre-judgment and post-judgment interest;
- (vii) Injunctive relief prohibiting Defendants from advertising that their cable ties are "Made in the USA"; and
- (viii) Such other and further relief as may be just, equitable, and proper.

JURY DEMAND

Plaintiff hereby requests a trial by jury on all claims so triable.

Respectfully submitted,

ADVANCED CABLE TIES, INC.,

By its attorneys,

/s/ Peter A. Biagetti

Peter A. Biagetti (BBO # 42310)

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Dated: March 27, 2017

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on the date of electronic filing.

/s/ Peter A. Biagetti

Peter A. Biagetti